

## **RESOLUTION NO. 2022-05**

**A RESOLUTION ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, APPROVING THE PETITION FOR A SPECIAL EXCEPTION TO ALLOW AN 2,016 SQUARE FOOT INDOOR RECREATIONAL AMUSEMENT USE IN A COMMERCIAL INTENSIVE (CI) ZONING DISTRICT, LOCATED AT 3747 S. MILITARY TRAIL, AS REQUESTED BY THE PETITIONER, STEPHAN A. YECKES, AGENT FOR THE OWNER, 3757 MILITARY TRAIL, LLC; PROVIDING FOR REPEAL OF CONFLICTING RESOLUTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Stephen A. Yeckes, hereafter "Petitioner", as agent for the owner, 3757 Military Trail, LLC, has submitted a petition for a Special Exception approval to allow a 2,016 Square Foot Indoor Recreational Amusement use to be located within a Commercial Intensive (CI) zoning district, located at 3747 S. Military Trail, pursuant to Section 16-499, Commercial Intensive (CI) regulations of the Zoning Code; and

**WHEREAS**, the Petitioner presented this matter to the Development Review Committee of the City of Greenacres which provided comments to the Development and Neighborhood Department which, in turn, recommended approval of the Special Exception to allow for an Indoor Recreational Amusement use within a Commercial Intensive (CI) zoning district, with the conditions identified in the Development Review Committee Staff Report and Recommendation, Exhibit "A" dated January 24, 2022, as revised; and

**WHEREAS**, the Planning and Zoning Board of Appeals reviewed the petition in a public hearing on February 24, 2022, for compliance with the Special Exception Criteria as indicated by the Findings of Fact contained in the Development Review Committee Staff Report and Recommendation and has found that the project is in compliance with said criteria; and

**WHEREAS**, the Planning and Zoning Board of Appeals made a recommendation on the petition to the City Council for approval; and

**WHEREAS**, this matter has been presented to the City Council for final approval, and the Council has voted to approve the Special Exception to allow for an Indoor Recreational Amusement within a Commercial Intensive (CI) zoning district subject to the conditions stipulated in the Development Review Committee Report.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, THAT:**

**SECTION 1.** The Petition, SE-21-01, a Special Exception to allow for an Indoor Recreational Amusement within a Commercial Intensive (CI) zoning district, is hereby approved.

**SECTION 2.** The approval of Petition SE-21-01 is subject to all conditions contained in the Development Review Committee Staff Report and Recommendation, Exhibit "A", dated January 24, 2022, as revised (attached).

**SECTION 3.** All resolutions in conflict herewith are hereby repealed.

**SECTION 4.** This approval is subject to the following conditions, which shall be the responsibility of and binding upon the Applicant, its successors or assigns:

1. The most stringent requirements of Exhibit "A" Development Review Committee Staff Report and Recommendation dated January 24, 2022, as amended, and Exhibit "B" Site and Development Plan stamp-dated December 15, 2021, as hereafter defined shall apply. (Planning)
2. The Special Exception is limited to the described Indoor Recreational Amusement operation. Changes to another type of Indoor Recreational Amusement will require a new Special Exception. (Planning)
3. Hours of operation shall be limited to between 10:00 a.m. and 12:00 midnight, seven

days a week. (Building)

4. In accord with the requirements of 546.10(3), (5)(b), (6)(a) and (7) of the Florida Statutes, the Indoor Recreational Amusement shall comply with the following (Building and PBSO):
  - a. All games shall be activated by inserting or using currency or a coin, card, coupon, slug, token, or similar device;
  - b. All games shall require the application of skill in order to win, with no material element of chance inherent in the game or machine;
  - c. All games shall award points or coupons only; machines shall not pay out in cash;
  - d. Points or coupons may be exchanged for merchandise only, excluding cash, gift cards and certificates, alcoholic beverage, tobacco products, an item or device that can be used to activate an amusement game or machine, and coupons or points with a value greater than the amount in F.S. 646.10(7) (currently \$5.25);
  - e. The wholesale cost of the merchandise or prize awarded in exchange for accumulated points or coupons shall not exceed 100 times the amount in 546.10(7) (currently calculates to \$525.00);
  - f. Merchandise for redemption shall be maintained on the premises and the redemption shall take place on site;
  - g. A minimum of 50 amusement games or machines shall be on the premises;
  - h. The business shall be operated for the entertainment of the general public and tourists as a bona fide amusement facility.
5. No outdoor speakers shall be permitted. (Building)
6. No noise from inside the tenant space shall be audible at the west property line of Warbanks Plaza. (Building)
7. The special exception is limited to the approved 2,016 square feet of area, in the location known as 3747 South Military Trail. Any increase in the size of the area or change in location will require a modification of this Special Exception. (Planning)
8. Access to the business shall be limited to those eighteen (18) years of age and older only. A sign to this effect shall be posted on the entry door. (Building)
9. All customer access shall be from the front (east-side) of the bay only. (Building)
10. No alcohol shall be sold or otherwise dispensed on the premises. (Building)
11. A minimum of two (2) customer restrooms in compliance with applicable Florida Accessibility Code requirements shall be provided. (Building)
12. Interior aisles a minimum of 44" wide shall be maintained free and clear of obstructions such as games, chairs, etc. at all times. (Fire Rescue and Building)

13. The property owner and tenant shall indemnify the City of Greenacres from damages resulting from law enforcement action. (PBSO and City Attorney)
14. Temporary use permits are necessary for any outside activities or events over and above the normal operations of the described indoor recreational amusement operation. (Planning)
15. The applicant shall submit for building permits and obtain a Certificate of Completion for all work requiring a permit prior to occupying the space. (Building)
16. The applicant shall submit for and obtain a City Business Tax Receipt prior to opening for business. The issuance, continuation, and renewal of the Business Tax Receipt is conditioned upon the strict conformance of the operation of the proposed use with the above listed conditions of approval. Failure to comply with the conditions of approval shall be cause for revocation of the Business Tax Receipt. (Building)
17. All advertisements and legal addresses on insurance policies and business correspondence shall clearly state that the project is located within the "City of Greenacres". (Planning)
18. Non-compliance with any of the conditions of approval will result in withholding of the issuance of building permits or certificates of completion and/or occupancy. (Building)
19. In the event that a court determines that activity of the sort proposed is illegal under the statutes of the State of Florida, this Special Exception approval shall be null and void. (Planning and City Attorney)

**Section 5.** This resolution shall become effective upon its adoption subject to the conditions of Petition SE-21-01 being satisfied.

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**RESOLVED AND ADOPTED this 21<sup>st</sup> day of March, 2022**

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**Joel Flores**, Mayor

**Attest:**

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**Quintella Moorer**, City Clerk

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**John Tharp**, Deputy Mayor

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**Peter Noble**, Council Member, *District II*

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**Judith Dugo**, Council Member, *District III*

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**Susy Diaz**, Council Member, *District IV*

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**Paula Bousquet**, Council Member, *District V*

**Approved as to Form and Legal Sufficiency:**

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**Glen J. Torcivia**, City Attorney